

ISSUE DATE: April 10, 1997

DOCKET NO. P-465/NA-97-220

ORDER GRANTING CERTIFICATE OF AUTHORITY WITH CONDITIONS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
Mac McCollar
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of US Link,
Inc. for a Conditional Certificate of Authority
to Provide Local Resold and Facilities-Based
Services

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PROCEDURAL HISTORY

On February 10, 1997, U.S. Link, Inc. (US Link or the Company) filed a petition for a certificate of authority to provide local services as a telecommunications carrier in Minnesota. US Link planned to offer multi-line and single-line access services, custom calling and CLASS features, ancillary services, operator services, private branch exchange trunks, direct-inward-dial and direct-outward-dial trunks, centrex-like access lines, and telecommunications relay services. Under its proposal, US Link would offer the services partly through its own facilities and partly through resale of services purchased from US WEST Communications, Inc. (US WEST). US Link would provide service in the US WEST exchanges of Duluth, Brainerd, St. Cloud, Moorhead, Rochester and Minneapolis/St. Paul.

On February 21, 1997, US WEST filed a petition for intervenor status.

On March 11, 1997, the Department of Public Service (the Department) filed comments recommending Commission approval of the petition.

On April 1, 1997, the matter came before the Commission for consideration.

FINDINGS AND CONCLUSIONS

I. THE REQUEST FOR INTERVENTION

Under Minn. Rules, part 7829.0800, subd. 5, if there is no objection to a petition for intervention and the petition is not denied, suspended, or referred to the Office of Administrative Hearings within 15 days of filing, the petition is deemed granted. Under this rule provision, US WEST's

petition for intervention is deemed granted. No further action is necessary.

II. THE STANDARDS FOR GRANTING A CERTIFICATE OF AUTHORITY

The statutory standards for Commission approval of an application for authority to provide new service is found at Minn. Stat. § 237.16, subd. 1(b):

No person shall provide telephone service in Minnesota without first obtaining a determination that the person possesses the technical, managerial, and financial resources to provide the proposed telephone services and a certificate of authority from the commission under terms and conditions the commission finds to be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with commission rules, and the commission rules.

III. US LINK'S APPLICATION FOR A CERTIFICATE OF AUTHORITY CONSIDERED UNDER THE STATUTORY STANDARDS

A. The Necessary Technical, Managerial, and Financial Resources

In its report, the Department stated that US Link's financial statements show that the Company has operated profitably for the past two years and that the Company has a positive net worth. The Department noted that US Link's officers are familiar with the operation of both local and long distance telephone service and appear to have the necessary technical expertise to offer the proposed services. The Department concluded that US Link has the necessary technical, managerial, and financial resources for a grant of authority under Minn. Stat. § 237.16, subd. 1(b). No party challenged the Department's conclusion.

The Commission agrees with the Department that US Link possesses the requisite technical, managerial, and financial resources. US Link has satisfied the first part of the statutory requirements for certification.

B. Other Standards for Certification under Minn. Stat. § 237.16, Subd. 1(b)

Under Minn. Stat. § 237.16, subd. 1(b), the terms and conditions under which the applicant will be certified must be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with commission rules, and the commission's rules.

The Commission finds that these essential factors cannot be determined upon examination of US Link's application alone. Only through analysis of the Company's filed tariffs and interconnection arrangements can the Commission consider such issues as the exact services proposed; the market and classes of customers targeted; the implications of universal service requirements; quality standards; the scope of the intended local calling area; rates; and terms and conditions of the interconnection arrangements.

The Commission will therefore grant US Link a conditional certificate of authority, contingent upon the following conditions:

- Before any future expansion of its local service area, US Link must file for an amended certificate of authority and receive Commission approval pursuant to Minn. Stat. § 237.16, subd. 4.
- Prior to providing local service, US Link must submit service area maps pursuant to Minn. Stat. § 237.16, subd. 3 and Minn. Rules, part 7810.0500. US Link must maintain such maps, showing the exchanges where US Link can actually provide local service, with the Department.
- US Link must submit to the Commission for approval any local service interconnection agreements negotiated with an incumbent local exchange carrier, pursuant to § 252(b)(4) of the Telecommunications Act of 1996.
- Prior to providing local service, US Link must file a proposed tariff for Commission approval that contains the rates and applicable terms and conditions for its local services. The Commission will establish a schedule under which comments on US Link's initial tariff would be due within 45 days of its filing and reply comments due 20 days thereafter.
- US Link will be subject to the rules arising from the rulemaking proceeding in Docket No. P-999/R-95-53.
- US Link will be subject to Commission rules and applicable Commission Orders.
- US Link will be required to proceed toward implementation of local service through a process which maintains all local exchange company (LEC) and independent LEC protections afforded under Minnesota statutes and the Federal Telecommunications Act of 1996.
- US Link must add language in its tariff clarifying a customer's rights under dialing parity when the Company files its final tariff.

IV. CONCLUSION

The Commission has concluded that US Link possesses the requisite managerial, technical, and financial capabilities to provide local service in Minnesota. The other essential standards under Minn. Stat. § 237.16, subd. 1(b) may be demonstrated through the Company's filed tariffs and interconnection arrangements. The Commission will therefore grant US Link a certificate of authority contingent upon the Company's filing tariffs and interconnection agreements, as well as certain other conditions enumerated in this Order.

ORDER

1. The Commission grants US Link a certificate of authority to provide local exchange service in the State of Minnesota, subject to the following conditions:
 - Before any future expansion of its local service area, US Link must file for an amended certificate of authority and receive Commission approval pursuant to Minn. Stat. § 237.16, subd. 4.
 - Prior to providing local service, US Link must submit service area maps pursuant to Minn. Stat. § 237.16, subd. 3 and Minn. Rules, part 7810.0500. US Link must maintain such maps, showing the exchanges where US Link can actually provide local service, with the Department.
 - US Link must submit to the Commission for approval any local service interconnection agreements negotiated with an incumbent local exchange carrier, pursuant to § 252(b)(4) of the Telecommunications Act of 1996.
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 - US Link will be subject to Commission rules and applicable Commission Orders.
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 - US Link must add language in its tariff clarifying a customer's rights under dialing parity when the Company files its final tariff.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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